

Amendments to the Drawings:

The attached sheet of drawings includes changes to Figure 2 and new Figure 3. This sheet replaces the original sheet including Figure 2 and submits the new Figure 3.

Attachment: Replacement Sheet

REMARKS

This Response is submitted in reply to the Office Action dated February 8, 2005. Claims 1-8, 10, 12 and 14-17 have been amended, and new Claims 18-27 have been added. The Specification and the Drawings have been amended. No new matter has been added to Claims, Specification or Drawings. A petition for a one-month extension of time to respond to the Office Action is submitted herewith. Enclosed is a check in the amount of \$870.00 to cover the cost of such extension of time and the new Claims. Please charge Deposit Account No. 02-1818 for any other payment due in connection with this Response.

Drawings

The Office Action objected to the Drawings under 37 C.F.R. §1.83(a), stating that the method flow charts of Claims 1-17 must be shown or the features cancelled from the Claims. Applicant has amended the Drawings by adding Figure 3 to illustrate the subject matter defined by such Claims and also disclosed in the Specification. No new matter has been added by such amendment. Accordingly, Applicant submits that such amendment has overcome such objection.

Also, the Office Action objected to the Drawings under 37 C.F.R. §1.83(a), stating that the Drawings fail to show the description (label) for each of the reference numbers in Figure 2 as described in the Specification. Applicant has amended Figure 2 to show such description. No new matter has been added by such amendment. Accordingly, Applicant submits that such amendment has overcome such objection.

Claim Rejections – 35 U.S.C. §112

The Office Action rejected Claim 1-5, 10, 14, 15 and 16 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action stated:

In claim 1 the language, “the player electing to continue ordinary play of the game or surrendering by forfeiting 60% or 40% of the maximum wager and receiving credit for 40% or 60%, respectively of the maximum wager of the maximum wager” is vague and indefinite because the percentages of forfeiting and receiving cannot be determined. Is the percentage by forfeiting 60% or 40%

or is the percentage by forfeiting one of 60% or 40%? Is the percentage by receiving 40% or 60% **or** is the percentage by receiving one of 40% or 60%?

Claims 2-5 depend from Claim 1. Applicant has amended Claim 1 to overcome such rejection. Also, Applicant has amended Claims 10, 14, 15 and 16 to overcome such rejection. Accordingly, Applicant respectfully submits that such rejection has been overcome.

Claim Rejections – 35 U.S.C. §103

Under 35 U.S.C. §103(a), the Office Action rejected:

- (a) Claims 1-3 and 16 as being unpatentable over (U.S. Patent No. 6,511,068 to Sklansky et al. ("Sklansky");
- (b) Claims 4 and 5 as being unpatentable over Sklansky in view of U.S. Patent No. 5,911,419 to Delaney et al. ("Delaney");
- (c) Claims 6 and 17 as being unpatentable over Draw Poker Dice, On-The-Square ("Draw Poker") in view of Sklansky;
- (d) Claim 7 as being unpatentable over Draw Poker in view of Sklansky as applied to Claim 6, and further in view of U.S. Patent No. 5,542,669 to Charron et al. ("Charron");
- (e) Claims 8-11 as being unpatentable over Sklansky in view of U.S. Patent No. 6,342,007 to Wood et al. ("Wood"); and
- (f) Claims 12-15 as being unpatentable over Sklansky in view of Charron.

With respect to the rejection of Claims 6 and 7, Applicant respectfully disagrees with and traverses such rejection. Specifically, Applicants disagrees with the following conclusions of the Office Action:

By having the option of surrendering by forfeiting a predetermined portion of the maximum (initial) wager, one of ordinary skill in the art would allow game players to made key decisions during game play by having the option to quit with a reduced amount of a loss on a bad hand. (Emphasis Added).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify Draw Poker Dice to include the player electing to continue ordinary play of the game or surrendering by forfeiting a predetermined portion of the maximum wager and receiving credit for a

remaining portion of the maximum wager as taught by Sklansky et al. to allow game players the option to quit with less of a loss on a bad hand. (Emphasis Added).

The method, as defined by un-amended Claims 6 and 7, does not involve merely providing the player with an option to quit with less of a loss on a bad hand. Rather, this method enables the player to view an initial hand and elect to play the initial hand or forfeit some of the wager and play a second hand with the remainder of the wager. In playing the second hand, the player may or may not receive any payout. This depends on the player's success with the second hand. Applicant has made certain amendments to Claims 6 and 7 to clarify the Claim language.

With respect to the rejection of Claim 17, Applicant respectfully disagrees with and traverses such rejection. When the player forfeits in Sklansky's system, the game ends. Sklansky discloses a system for communal card poker games. The system enables the players to forfeit a predetermined portion of their initial bet before folding, that is, ending play. This allows the players to terminate the game and recover one-half of the original bet. The player may remove the half-bet and walk away from the game with the credit equivalent to such half-bet amount. Sklansky's system thus enables players to quit with less of a loss.

Sklansky's system does not disclose, teach or suggest a method that holds the non-forfeited portion of the player's original wager required for continued play of the game. Applicant has amended the Claims to clarify that the Claimed invention involves the game holding the non-forfeited portion for further play as opposed to enabling the player to take the non-forfeited portion and walk away from the game.

Amended Claim 1 (and Claims 2-5 which depend therefrom) are directed to method of playing a video wagering game of draw poker against a payable. The method includes the following elements, among others: if the player surrenders: (a) determining a wager amount that is based on a difference between the maximum wager and the forfeited portion of the maximum wager; (b) such game holding such wager amount; and (c) enabling the player to view another hand and play the game with such other hand using such held wager amount.

Delaney discloses a method for playing casino playing card games. This method enables the player to play Deuces Wild, Joker Wild or Draw Poker. Neither Sklansky, described above, or Delaney, viewed separately or collectively, disclose, teach or suggest such a method having such elements. Accordingly, Applicant respectfully submits that Claims 1-5 are in condition for allowance.

Amended Claim 6 (and Claim 7 which depends therefrom) are directed to a method of playing a video wagering game of draw poker. The method includes the following elements among others: if the player elects to surrender, the remaining portion is held by the game and used in the game against a second one of the pay tables, the second pay table having a payout rate that is lower than the payout rate of the first pay table. Draw Poker discloses a draw poker machine which, in a no win situation, enables the player to save die by pressing a hold lever. The machine enables the player to flip the die not held in hopes of improving the hand. The machine also discloses a first set of outcomes for winnings on the first play and a second set of outcomes for winnings on the second play. Charron discloses a video game which determines if the player placed the maximum bet. If so, the video game triggers a bonus routine if certain conditions are present. Neither Draw Poker, Sklansky or Charron, viewed separately or collectively, disclose, teach or suggest, such method of Claim 6. Accordingly, Applicant respectfully submits that Claims 6-7 are in condition for allowance.

Amended Claim 8 (and Claims 9-11 which depend therefrom) are directed to a video poker wagering game machine. The game machine has the following elements, among others: a processor that is programmed to: (a) prohibit surrender when an initial displayed hand is one of a plurality of winning outcomes; and (b) permit surrender when the initial displayed hand is a designated other outcome. The surrender results in: (i) forfeiture of a portion of the wager; (ii) determination of a wager amount that is based on a difference between the wager and the forfeited portion of the wager; (iii) holding of such wager amount by such game; and (iv) application of said wager amount in operation of the game involving another displayed hand.

Wood discloses a gaming machine having a poker game. When the gaming machine displays four card flush to the player, the gaming machine highlights or flashes

the four cards that make-up this flush. When the player is alerted to the flush, the player decides whether or not to take automatically the fifth card which will complete the flush as a five card flush. Neither Sklansky, described above, or Wood, viewed separately or collectively, disclose, teach or suggest, the game machine of Claim 8. Accordingly, Applicant respectfully submits that Claims 8-11 are in condition for allowance.

Amended Claim 12 (and Claims 13-15 which depend therefrom) are directed to a method of playing a wagering game. The method includes the following elements among others: (a) such game holding a wager amount that is based on a difference between the wager and the surrendered portion of the wager; and (b) resolving the other hand using such held wager amount. Neither Sklansky or Charron, each of which is described above, viewed separately or collectively, disclose, teach or suggest the method of Claim 12 having such elements. Accordingly, Applicant respectfully submits that Claims 12-15 are in condition for allowance.

Amended Claim 16 is directed to a method of playing a video wagering game of draw poker against a pay table. The method includes the following elements among others: if the player surrenders: (a) the game holding a wager amount that is based on a difference between the wager and the forfeited portion of the wager; and (b) the player viewing another hand and playing the game with such other hand using such held wager amount. Sklansky, described above, does not disclose, teach or suggest such a method. Accordingly, Applicant respectfully submits that Claim 16 is in condition for allowance.

Amended Claim 17 is directed to a method for operating a gaming device. The method includes the following elements, among others: if the player elects to surrender, a remaining portion of the maximum wager is held by the game, and such remaining portion is used in the game against a second pay table with payout rates on at least one hand being lower than the payout rate for a same hand as in the first pay table. Accordingly, Applicant respectfully submits that Claim 17 is patentably distinguished over Sklansky and is in condition for allowance.

New Claim 18 (and Claims 19-22 which depend therefrom) are directed to a method for operating a gaming device. The method includes: receiving a wager from a player; displaying at least one hand for a card game; dealing a first set of cards to the player's hand and receiving a first input or a second input provided by the player. If the first input is received, the method includes operating the card game based on the first set of cards; and providing the player with any winning outcome occurring during such card game. If the second input is received, the method includes: forfeiting a portion of the wager; determining a wager amount that is based on a difference between the wager and the forfeited portion of the wager; holding the determined wager amount; dealing a second set of cards to the player's hand; applying the determined wager amount to the card game that is based on the second set of cards; and providing the player with any winning outcome that occurs in such card game. Sklansky, Delaney, Draw Poker and Charron do not, viewed separately or collectively, disclose, teach or suggest such a method. Accordingly, Applicant respectfully submits that Claims 18-22 are in condition for allowance.

New Claim 23 (and Claims 24-27 which depend therefrom) are directed to a gaming device including a card game wherein a player plays at least one hand. The gaming device has at least one wager for the card game that is permitted to be placed by the player. Also, the gaming device includes at least one winning outcome associated with the card game and a display device operable to display the card game to the player. The processor is operable with the display device to: (a) deal a first set of cards to the player's hand; (b) receive a first input or a second input provided by the player; (c) if the first input is received, operate the card game based on the first set of cards and provide the player with any winning outcome occurring during such card game; and (d) if the second input is received: (i) forfeit a portion of the wager; (ii) determine a wager amount that is based on a difference between the wager and the forfeited portion of the wager; (iii) hold the determined wager amount; (iv) deal a second set of cards to the player's hand; (v) apply the determined wager amount to the card game that is based on the second set of cards; and (vi) provide the player with any winning outcome that occurs in such card game. Sklansky, Delaney, Draw Poker and

Charron do not, viewed separately or collectively, disclose, teach or suggest such a gaming device. Accordingly, Applicant respectfully submits that Claims 23-27 are in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY



Renato L. Smith
Reg. No. 45,117
P.O. Box 1135
Chicago, Illinois 60690-1135
Phone: (312) 807-4443

Dated: May 25, 2005